

## **FISCAL NOTE**

### **HB 3639 - SB 3820**

March 19, 2006

**SUMMARY OF BILL:** Eliminates duty to obtain a permit to operate a Concentrated Animal Feeding Operation (CAFO).

#### **ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – Federal Environmental Protection Agency (EPA) regulations requiring permits for all CAFOs have recently been held invalid by the United States Court of Appeals for the Second Circuit. EPA is currently rewriting these regulations to comply with the Court's decision and anticipates issuing new rules by mid-2006. If the new regulations are more stringent than the provisions of this bill, and if their validity is upheld, federal Clean Water Act funds of \$2.1 million would be jeopardized in FY07-08 and later years, according to the Department of Environment and Conservation. If the new regulations are not more stringent than the requirements of this bill, there will be no fiscal impact. It is impossible to determine at this time whether the new regulations will be more or less stringent than this bill.**

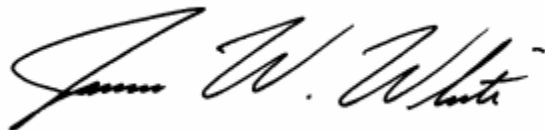
#### Assumptions:

- The Second Circuit Court of Appeals, in *Waterkeeper Alliance, Inc. v. EPA* (399 F.3d 486) (2005), invalidated federal regulations requiring a permit for all CAFOs, not just CAFOs that make actual discharges into water sources. This bill modifies Tennessee law to eliminate the state law requirement for permits for all CAFOs.
- The new regulations being drafted by EPA may reinstate some form of CAFO permitting standards, in which case federal Clean Water Act funds may be jeopardized by passage of this bill, depending on the requirements of the new regulations. The deadline for obtaining CAFO permits has been extended by EPA until July 31, 2007. The impact of this bill, if any, on receipt of federal funds would not occur until August, 2007, at the earliest.

#### **CERTIFICATION:**

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This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized initial "J" and a distinct "W".

James W. White, Executive Director